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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,211	04/04/2006	Zoltan A. Kemeny	D-3184	3664
33197	7590	11/24/2009		
STOUT, UXA, BUYAN & MULLINS LLP 4 VENTURE, SUITE 300 IRVINE, CA 92618			EXAMINER	
			BARTOSIK, ANTHONY N	
			ART UNIT	PAPER NUMBER
			3635	
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			11/24/2009 PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/522,211

**Applicant(s)**

KEMENY, ZOLTAN A.

**Examiner**

ANTHONY N. BARTOSIK

**Art Unit**

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 October 2009 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

### **DETAILED ACTION**

This is a Non-Final Rejection sent in response Applicant's RCE of October 8, 2009.

#### ***Specification***

1. The new matter issue directed to the filler material "100" being added to the specification is withdrawn, as Applicant has canceled the reference numeral. Additionally, with the cancellation of claims 5 and 6, the new matter issues contained within are withdrawn.
2. The amendment filed 3/04/2009 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. New Figure 10 is considered new matter. Figure 10 depicts a lower plate that does not contain a middle member (80) as is disclosed in all other figures. Such a figure does not have support within the original specification since the specification does not disclose where it is acceptable for the middle support to be removed.

Applicant is required to cancel the new matter in the reply to this Office Action.

#### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the number of plates

and cavities being greater than 4 (Claim 11) and those 4 being linked by connecting members must be shown or the feature(s) canceled from the claim(s). The submitted figures including the mentioned features are considered new matter and are therefore not accepted. No new matter should be entered. For examination purposes, it will be assumed that the upper and lower interstitial regions refer to open space between the upper and lower plates and between the connecting members (80).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. Having determined that new Figure 10 contains new matter, all the figures together are not accepted and new Figure 4 must be submitted separately.

### ***Claim Objections***

5. The previous objection to claim 7 has been corrected and is removed.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-4 and 7-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
8. Claim 1 is unclear due to the language of the upper plate having a plurality of bearing surfaces that are linked by connecting members (ll. 4-6). It appears that the claim is describing Figure 3, there is only one upper plate (70) per bearing surface that are linked by connecting members and not a plurality.
9. Claims 1, 7, and 10 are indefinite due to the language of the pay load. From the recited language it is not clear whether the payload is intended to be a limiting element

of the claim. For examination purposes it is being assumed that the payload and equipment is recited as intended use only.

***Response to Amendments/Arguments***

10. Applicant's arguments in connection with the amendments with respect to the claims have been considered and are persuasive. Upon a further search however, additional prior art was found and a new ground(s) of rejection is issued.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**12. Claims 1-7 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haider (U.S. 6,052,955) in view of Yamada et al. (U.S. 4,917,211) and Kemeny (U.S. 5,599,106).**

13. In Re claim 1, Col. 3, ll. 62 – Col. 4, ll. 67 of Haider disclose an upper plate (13a) with a plurality of bearing surfaces (18a) and a lower plate (13 - *or as shown in the alternative embodiments as 10*) with a bearing surface (18b), a plurality of spherical balls (17), and a retention mechanism (22), and appears to disclose the claimed shapes

of the bearing surface. The additional limitations associated with the above elements are considered functional and are found to be met by Haider.

Haider doesn't specifically disclose a connecting member for both the upper and lower plates; however, to include additional frame members would have been obvious. Yamada et al. teaches the use of connecting members (22) in connection with a platform system. Including additional frame member it would have been obvious to one skilled in the art at the time of the invention to include connecting members to further strengthen the platform. Such a modification of Haider would be obvious as a use of known technique to improve similar devices in the same way.

As noted above Haider teaches the rigid bearing surface being of the shape claimed, however they are not specifically disclosed. Figures 1-3 of Kemeny discloses the claimed characteristics of the rigid bearing surface. Implementing the rigid bearing surface of Kemeny with the system of Yamada et al. would have been obvious as a simple substitution of one known element for another to obtain a predictable result.

14. In Re claim 2, Figure 2 of Kemeny teaches a gasket (22). Implementing the gasket of Kemeny would have been obvious as a use of known technique to improve similar devices in the same way.

15. In Re claims 3 and 4, the combination teaches the claimed limitations of the upper and lower plate segments (the compilation 18a's and 18b's) and the interstitial regions (*the area between the connecting members of the combination*).

16. In Re claims 7 and 10, the combination of Haider, Yamada et al., and Kemeny teach the claimed limitations, see the reasoning set forth for the rejection to claim 1.

17. In Re claim 9, the above combination teaches an open end (*area between the upper and lower connecting members on each end*).

18. In Re claim 11, the combination renders the duplication of the plates as obvious. MPEP 2144.04.

19. In Re claims 12-20, the combination renders the claimed limitations as obvious since the claimed limitations are set forth as intended use per the 35 U.S.C. 112 as set forth above.

20. In Re claims 21 and 22, the combination of Haider, Yamada et al., and Kemeny teach the claimed limitations, see the reasoning set forth for the rejection to claim 1.

21. In Re claim 23, the combination renders the claimed limitations as obvious. The Examiner takes official notice that it is well known to secure connecting members as claimed with nuts and bolts.



22. In Re claim 24, the above combination teaches the claimed limitations of a payload, i.e. any object placed on top the upper plate. Although Haider is disclosed as being used for a flooring system one having skill in the art would find it obvious to use such a configuration for setting fragile equipment upon.

23. In Re claim 26, the above combination teaches an open end (*area between the upper and lower connecting members on each end*).

**24. Claims 8 and 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haider (U.S. 6,052,955), Yamada et al., and Kemeny as applied to claims 7 and 21 above, and further in view of Haak (U.S. 5,716,037).**

25. In Re claims 8 and 25, the combination teaches the claimed invention except for a securing device. Although Haider is disclosed as being used for a flooring system one having skill in the art would find it obvious to use such a configuration for setting fragile equipment. Col. 3, Lines 25-32 of Haak teaches that it is known to fasten a payload to a seismic isolator. Securing the payload will ensure that it does not fall off the isolator as it moves. It therefore would have been obvious to one having ordinary skill in the art at the time of the invention to secure the payload to the upper plate as taught by Haak. Such a modification would not yield any new or unexpected results.

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY N. BARTOSIK whose telephone number is (571)270-3112. The examiner can normally be reached on M-F 7:30-5:00; E.D.T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./  
Supervisory Patent Examiner, Art Unit 3635

Anthony Bartosik  
Examiner  
Art Unit 3635